

Remarks

The present response is being submitted in reply to the Office action issued on June 15, 2005. Claims 1-9 are pending in this application and each has been rejected by the present Office action. By the present response, claims 1-8 have been amended and claim 9 has been canceled. Support for amended claim 1 can be found in canceled claim 9, as well as in the specification at paragraph number 0041. Claims 2-8 have not been amended substantively. No new matter has been added. Reconsideration is respectfully requested in light of the amendments being made hereby and of the following remarks.

Objection to the Specification

The Examiner has requested that paragraph number 0001, which refers to the parent application from which the present application relies, be amended to recite the now issued patent information. This paragraph has been amended as set forth above to reflect the status of said parent application. Withdrawal of this objection is respectfully requested.

Rejection of claims 1-9 under 35 U.S.C. 103(a)

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,244,677 (Kreckel, et al.). According to the Examiner, Kreckel, et al. teaches a substantial anticipation of the claimed invention, namely, disclosing an adhesive punchout article comprising an adhesive layer with an inner recess, the outer line of the adhesive punchout sharing no common point with the outline of the inner recess, as well as an adhesive backed medicine pill die cut bandage for application to the skin. The Examiner states that the reference does not anticipate the claimed invention because it

fails to teach the presence of any specific pharmaceutical active ingredients, such as those set forth in present claim 1. However, the Examiner believes that the presence of almost any other pharmaceutical active ingredient would be an obvious modification to one of ordinary skill in the art, in the absence of unexpected results. The Examiner lastly states that the features of the present invention as recited in dependent claims 4 and 5 would also be obvious modifications to the invention of Kreckel, et al., absent unexpected results.

The applicants respectfully submit that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The applicants submit that each and every feature recited in the present claims, as amended herein, are not set forth in Kreckel, et al. Moreover, the applicants do not believe one skilled in the art would have had any motivation to amend the invention of Kreckel, et al. to arrive at the presently claimed invention.

Turning now to a discussion of Kreckel, et al., the applicants respectfully submit that the reference discloses that the carrier element, which corresponds to the matrix of the presently claimed adhesive die-cut article, is formed of a non-woven fleece or foamed material piece (Abstract; col. 2, last paragraph; description of Figs. 1 & 2 (cols. 4 & 5) and the Examples). Specifically, for transdermal application of low-viscous solutions, the carrier element consists of non-woven fleece with an adhesive layer applied to its bottom

side (col. 2, lines 63-67), and for transdermal delivery of low-viscous microemulsions, the carrier element is formed from a relatively flat foamed material piece with closed pores (col. 3, lines 22-28).

The applicants submit that Kreckel, et al. emphasizes the porous nature of the carrier element, such emphasis being made clear by the repeated notation in the reference that the carrier element is either a foamed material or a non-woven fabric, particularly for the transdermal administration of low-viscous fluids (see, for example, “solutions” (col. 2, lines 63) or “microemulsions” (col. 3, lines 22-23)).

In contrast to the system according to Kreckel, et al., the die-cut article according to the present invention and set forth in present claims 1-8, specifically, amended claim 1, comprises a compacted matrix. This does not include a porous means or woven or non-woven fabrics, such as in the invention of Kreckel, et al. The volume of the reservoir/cut out is constant in the case of using a compacted matrix material, and can be easily determined. Thereby, the reservoir of the present invention can be filled with flowable or pourable preparations in a reliably reproducible manner.

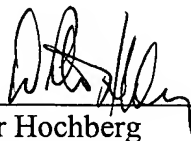
Clearly, each and every feature of the present invention as recited in claims 1-8 is not set forth in the prior art reference. Moreover, the applicants believe that Kreckel, et al. does not provide any suggestion or motivation to modify the device set forth therein to make up for the aforementioned deficiencies, namely, to replace the porous carrier element with one of compacted material, and to subsequently arrive at the presently claimed invention. Therefore, withdrawal of this rejection is strongly requested.

Conclusion

In light of the foregoing claims and arguments, it is believed that the present application is in condition for allowance, and such action is earnestly solicited. The Examiner is invited to call the undersigned if there are any remaining issues to be discussed which could expedite the prosecution of the present application.

Respectfully submitted,

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